

Decision for dispute CAC-UDRP-105250

Case number	CAC-UDRP-105250
Time of filing	2023-03-02 08:58:35
Domain names	corelledinnerwareonline.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	Instant Brands LLC
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Complainant representative

Organization	Stobbs IP Ltd
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Respondent

Name	Ronh He
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered proprietor of various trademarks of "CORELLE" and other intellectual property rights worldwide. Since launching the CORELLE brand in 1970, the Complainant has built a significant reputation and has built up a vast amount of goodwill in the CORELLE trademarks in the UK and abroad in relation to dinnerware goods and related services.

FACTUAL BACKGROUND

The CORELLE brand has extensive reach offering its products and services worldwide. The Complainant has an active online presence which is used for the main operating website at www.corelle.com, with the website being live since at least as early as 9 November 2000. The Complainant is also active on social media and has generated a significant level of endorsement.

The Disputed Domain Name <corelledinnerwareonline.com> was registered on 14 April 2022. The Registrant is named "Ronh He" according to WHOIS information.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Complainant requests that the language of this administrative proceeding be English pursuant to UDRP Rule 11(a): Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. Complainant makes this request in light of the potential Chinese language Registration Agreement of the disputed domain name involved at this Complaint.

Paragraph 10 of the UDRP Rules vests a Panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case. UDRP panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios were summarized into WIPO Jurisprudential Overview 3.0, 4.5.1. In this particular instance, the Complainant requests change of languages of proceedings in light of Chinese language Registration Agreement by showing that 1) The disputed domain name redirects to website written entirely in English; 2) The dispute domain name contains generic English words such as “dinnerware” and “online”, suggesting that the Respondent has some grasp of the English language; and 3) the translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter.

In light of the scenarios and equity, the Panel is of the view that conducting the proceeding in English is unlikely to heavily burden the Respondent, and it is likely that the Respondent can understand the English language based on a preponderance of evidence test. Without further objection from the Respondent on the issue, the Panel will proceed to issue the decision in English.

PRINCIPAL REASONS FOR THE DECISION

- 1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).**

The Complainant contends that disputed domain name <corelledinnerwareonline.com> is confusingly similar to the Complainant's trademarks “CORELLE”. The Complainant is the registered proprietor of various trademarks of “CORELLE” and other intellectual property rights worldwide. Since launching the CORELLE brand in 1970, the Complainant has built a significant reputation and has built up a vast amount of goodwill in the CORELLE trademarks in the UK and abroad in relation to dinnerware goods and related services. The CORELLE brand has extensive reach offering its products and services worldwide. The Complainant has an active online presence which is used for the main operating website at www.corelle.com, with the website being live since at least as early as 9 November 2000.

The disputed domain name <corelledinnerwareonline.com> was registered on 14 April 2022. It incorporates the Complainant's trademark in its entirety. By adding non-distinctive generic term – “dinnerware” and “online”, internet users are likely to assume that the disputed domain belongs to the Complainant and refers to branded Complainant's products sold online. The addition of the gTLD “.com” does not add any distinctiveness to the disputed domain name.

The Panel therefore concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in the present case has not licensed or authorized the Respondent to register or use its trademarks or the disputed domain name. There is no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademarks. The organization of the Respondent, "Ronh He", also has no connection with the Complainants' brand. The Complainants did not grant any license or authorization to the Respondent to register or use the disputed domain name, nor the use of the Complainants' trademark on pages of the disputed websites.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

3. The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

The use and registration of the disputed domain name by the Respondent has been done in bad faith.

First of all, the registration of the disputed domain name by the Respondent was done in bad faith. UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. With the worldwide reputation of the CORELLE trademark, the presumption arises that the disputed domain name was registered with the intention to attract Internet users by creating a likelihood of confusion with the well-known CORELLE trademark.

Secondly, the use of the disputed domain name was in bad faith. Bad faith is found in cases when a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the Complainant's trademark (see WIPO Overview 3.0, par. 3.1). Prior panels have consistently held that using domain names for illegal activity (in this case the sale of counterfeit goods and impersonating/passing off) is high evidence of illegitimate intent. Panels have categorically held that the use of a domain name for illegal activity constitutes bad faith use (WIPO Overview 3.0, paragraph 2.13.1). The disputed domain name is linked to Infringing Website showing sales links of counterfeit products of the Complainant's brands, therefore and based on the preponderance of evidence, the Respondent has registered the disputed domain name in order to drive Internet traffic to the Infringing Website in order to impersonate as the Complainant to sell counterfeit product. According to paragraph 4(b)(iv) of the Policy, "by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location", if found by the Panel, shall be considered evidence of registration and use of the domain name in bad faith (See e.g., Booking.com BV v. Chen Guo Long. WIPO UDRP Case No. D2017-0311).

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Complainant has shown that disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **corelledinnerwareonline.com**: Transferred

PANELLISTS

Name	Carrie Shang
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DATE OF PANEL DECISION 2023-04-09

Publish the Decision
